IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (PIL) (LODGING) NO. 2825 OF 2004

People for Ethical Treatment of Animals)
(PETA), 301, West End, Gandhi Gram Road,)
Juhu, Mumbai.)...Petitioner

Versus

1. Commissioner,)
Brihan Mumbai Mahanagarpalika)
(Veermata Jijabai Bhosle Udyan & Zoo))
Mahapalika Marg, Fort, Mumbai.)

2. Secretary, Department of Forest and)
Environment, Government of Maharashtra,)
Mantralaya, Mumbai.)

3. Central Zoo Authority,)
Bikaner House, (Annexure-VI), Shahjan Road,)
New Delhi)..Respondents

Mr. Raj Panjwani for the petitioner.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for respondent No.1.

Mr. R.M. Sawant, Government Pleader, for respondent No.2.

Mr. Rajiv Chavan for respondent No.3.

CORAM: **DALVEER BHANDARI, C.J.** & **S.J. VAZIFDAR, J.**

DATE: **JULY 18, 2005**.

ORAL JUDGMENT (Per Dalveer Bhandari, C.J.):

1. People for Ethical Treatment of Animals, a charitable organization, has filed this petition projecting the condition of the animals in the zoo. The main object, besides others of the petitioner's organization, are to prevent cruelty to animals and advocating the people regarding ethical treatment of animals used for food, entertainment, clothing, and experimentation and to relieve the suffering of animals of any species caused by man and to investigate allegations of cruelty to animals, etc.

2. Veermata Jijabai Bhosle Udyan & Zoo, popularly known as “Byculla Zoo”, was set up in the year 1873 and is one of the oldest zoos in the country. A visit to the said zoo gives an impression of an antiquated Victorian age menagerie. According to the petitioner, the petition raises many questions of public importance. They are:

(i) Whether the primary objective of a zoo is conservation of wild life?

(ii) Whether keeping and exhibiting animals in a zoo like Rhesus Monkey, Pigs, Nilgai, Spotted Deer, Sambar, Hyena, Porcupine, Crocodile, Muniya, etc. are which yet found in reasonable numbers in the wild could be said to be in furtherance of conservation of wildlife?

(iii) Whether depriving such animals as mentioned above of their legitimate natural right to open and free existence violates the fundamental duty to have compassion towards animals as enshrined in Article 51-A (g) of the Constitution?

(iv) Whether the Byculla Zoo Authority is under an obligation to design animal enclosures so as to meet the full biological requirements of the animal housed herein?

(v) Whether the Byculla zoo authority is under an obligation to simulate the conditions of the natural habitat of the animal in the enclosures?

(vi) Whether the Byculla zoo authority should transfer aged, infirm, sick and diseased animals to any of the rescue centers for appropriate treatment, care and rehabilitation?

(vii) Whether the Byculla zoo authority is under an obligation to provide potable water to animals and to regularly remove left over food items, animal's excreta and rubbish from each enclosure?

(viii) Whether the Byculla zoo Authority is under an obligation that animals in the enclosures are not teased or fed by visitors?

(ix) Whether the Byculla zoo needs to be shifted in view of the limited space available to expand and modernize the animal enclosures?

3. It is averred in the petition that the Parliament has enacted the Wildlife Protection Act, 1972 (for short “the Act”), to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto. The Parliament by the Wildlife (Protection) Amendment Act No. 44 of 1991 added Chapter IV A to the Wildlife Protection Act, 1972, thereby setting up a Central Zoo Authority in order to regulate and supervise the establishment and management of zoos in the country as specified in Section 38C of the Act. Pursuant to the powers conferred under the said Act, the Central Government has notified and published the Recognition of Zoo Rules, 1972. The said Rules, besides the requirement of registration of zoos, extensively prescribed the standards and norms subject to which recognition under Section 38 H of the Act is to be granted.

4. The petitioner has highlighted the problems of the poor infrastructure in Byculla Zoo resulting in infliction of unnecessary pain and sufferings of animals housed in the said zoo. The petitioner had written number of letters/representations about the condition of the animals in the said zoo. The said letters/representations highlight the

following aspects that need to be improved in the Byculla zoo.

(i) Animals are given drinking water only once a day in their retiring cubicles and the access to which is closed;

(ii) The cages are barren and lack any kind of vegetation.

(iii) There is inadequate barrier which leads to feeding and teasing of the animals at the zoo.

(iv) Lack of security guards to keep the people away.

(v) No environmental enrichment leading to stereotype behaviour in most of the animals;

(vi) Overcrowding of certain species of animals and the zoo has taken no efforts to control the population;

(vii) Single animals;

(viii) The enclosure are old and have various leakages causing problem to the animal housed therein;

(ix) No hiding place for the animal;

(x) Elephants chained most of the time especially the male elephant;

(xi) Poor hospital conditions;

(xii) The animals in the hospital kept in tiny squeeze cages for months;

(xiii) Plastic glass found in monkeys enclosure;

(xiv) Lack of perches and nesting boxes in the bird enclosures; and

(xv) The management of the zoo needs to be improved.

The petitioner submitted that despite the innumerable letters, representations and reports, the condition of the animals in the zoo have not substantially improved. Therefore, the petitioner has been compelled to file this petition.

5. The petitioner, being aggrieved by the inaction on the part of the authorities, inter alia, raised the following main grounds:

(i) The Rule 10 (10) of the Recognition of Zoo Rules, 1992, strictly mandates that the primary objective of operating any zoo shall be the conservation of wildlife and no zoo shall take up any activity that is inconsistent with the said objective. It is submitted that keeping the animals in a zoo which are not critically endangered in other words which are yet found in reasonable numbers in their natural habitat cannot be stated to have been kept in a zoo for conservation of wildlife;

(ii) That depriving such animals which are not critically endangered of their legitimate natural right to open and free existence violates the fundamental duty to have compassion towards animals. Article 51-A (g) of the Fundamental Duties of the Constitution makes it a duty of every citizen to have compassion for living

creatures. Compassion in Webster's New Dictionary means “fellow feeling, or sorrow for the sufferings of another, pity.” In the Shorter Oxford Dictionary it means “pity that inclines one to spare or to succor” . Article 51-A (g) thereby imposes a fundamental duty on every citizen to be compassionate towards all living creatures i.e. To spare the life and not to inflict pain on any living creator. On the contrary, Article 51-A (g) directs all citizens to protect all animals on which pain is being inflicted, let alone taking away its life.

(iii) It is submitted by the petitioner that fundamental duties form the fundamental feature and the social conscience of the constitution enjoins upon all citizens to discharge these fundamental duties. These fundamental duties as contained in Part IV-A of the Constitution lay down the moral conduct of the citizens in their interaction with beings and things. The morals as specified in Chapter IV-A of the Constitution form part and parcel of Art. 21; and the State is duty bound to promote such morals. And Articles 14 and 16 are the means to implement the policy and to achieve the ends sought to be promoted by the fundamental duties.

(iv) That Rule 10 (16) of the said Rules states that all animal

enclosures in a zoo shall be so designed as to meet the full biological requirements of the animals housed therein.

(v) That Rule 10 (17) of the saids Rules further stipulates that the zoo operations shall endeavour to simulate the conditions of the natural habitat of the animals in the enclosure.

(vi) That Rule 10 (22) and (23) makes it mandatory for every zoo to regularly remove left over food items, animal excreta and rubbish from the enclosures and to provide round-the-clock supply of potable water for drinking purpose in each enclosures, cell or cubicle.

(vii) That the continued confinement of animals which are aged, infirm, sick or diseased in small cages/areas amounts to infliction of unnecessary pain and suffering which is prohibited under the Prevention of Cruelty to Animals Act, 1962, and that such animals need to be relocated to a rescue center;

(viii) That Section 38 I of the said Act makes it an offence to tease or molest or injure or feed any animal or cause disturbance to the animals, be noise or otherwise or litter the grounds in a zoo.

(ix) That the said Byculla Zoo is located in the very heart of the city and that apparently there is no further space to expand and

provide suitable enclosures. Hence, it may be appropriate to shift the said zoo to some area on the outskirts of the city where modern and suitable enclosures could be provided to the animals housed in the said zoo.

6. In this petition, the petitioner has prayed that respondent Nos. 1 and 2 be directed to:

(i) transfer non-critical endangered species to Rescue Centres;

(ii) provide enclosures so as to meet the full biological requirements of the animals housed therein;

(iii) simulate the conditions of the natural habitat of the animals in the enclosures;

(iv) provide clean water for animals and to regularly remove left over food items, animal excreta and rubbish from each enclosures and to maintain hygienic conditions in the zoo compound;

(v) ensure that the visitors to the zoo do not tease or molest or injure or feed any animal or cause disturbance to the animals by noise or otherwise or litter the grounds of the zoo;

(vi) relocate aged, infirm, sick and diseased animals to Rescue Centres;

(vii) shift the Veermata Jijabai Bhosle Udyan Zoo to a larger area on the outskirts of the city of Mumbai;

(viii) strictly enforce and implement the Recognition of Zoo Rules, 1992; and

(x) appoint a Committee of experts to report on the housing, upkeep and health including behaviour of the animals, hygienic conditions, inter action between the visitors and the animals in the zoo and the viability of shifting the zoo to some other place.

7. Pursuant to the notice issued by this Court, affidavits have been filed on behalf of respondent Nos.1 and 3. On behalf of respondent No.3 , Brij Raj Sharma, Member Secretary, Central Zoo Authority (Ministry of Environment and Forests), New Delhi, has filed an affidavit. It is submitted by respondent No.3 that the Act was passed to provide for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto. In the affidavit it is mentioned that this Act was passed keeping in view the rapid decline of India's wild animals and birds, one of the richest and most varied source of fauna in the world. Some wild animals and birds have already become extinct in this country and other area in the danger of being so. Areas, which were once teeming with wild life, have become devoid of it and even in

Sanctuaries and National Parks and protection afforded to wildlife needs to be improved. The Wild Birds and Animal Protection Act, 1912 (8 of 1912) has become completely outmoded. The existing State laws were not only outdated but provided punishments which were not commensurate with the offence and the financial benefits which accrued from poaching and trade in wildlife produce. Further, such laws mainly related to control of hunting and did not emphasize the other factors which were two prime reasons for the decline of India's Wild Life, namely taxidermy and trade in wild life and products derived therefrom.

8. It is mentioned in the said affidavit that the Central Government having considered the relevant local provisions existing in the States, came to the conclusion that these were neither adequate nor satisfactory. Therefore, it was felt that there was an urgent need for introducing a comprehensive legislation, which would provide for the protection of wild animals and bird for all matters connected therewith or ancillary and incidental thereto. The 1972 bill sought to (a) constitute a Wild Life Advisory Board for each State, (b) regulate hunting of wild animals and birds, (c) lay down the procedure for declaring areas as sanctuaries, national parks, etc., (d) regulate possession, acquisition or transfer or, or trade in, wild animals, animal articles and trophies and

taxidermy thereof, and (e) provide penalties for contravention of the Act. It had been felt for long time the need for having standards and norms that are uniformly applicable to all th zoos in the country. The Parliament by an amendment in September, 1991 added Chapter IVA to the Wild Life (Protection) Act, and made a provision for creation of a Central Zoo Authority to oversee, monitor and coordinate the management of the zoos in the country.

9. Respondent No.3 has admitted that there has been a mushroom growth of zoos in India. Zoos, if managed properly, serve a useful role in the preservation of wild animals. So far there is no legislation dealing with zoos. Provisions are now being made for setting up of a Central Zoo Authority responsible for overseeing the functioning and development of zoos in the country. Only such zoos would be allowed to operate as are recognised and maintain animals in accordance with the norms and standards prescribed by the Zoo Authority.

10. Respondent No.3 has candidly admitted that zoos were meant to show people various types of wild animals for satisfying their inquisitiveness and curiosity. Very little attention was given to providing

the animals, circumstances congenial to their physical and mental health and maintaining the species-specific behaviour of the animals. The Government of India, however, realised that the objectives of the Act can be achieved only through cooperation and participation of various Government agencies, non-Governmental organisations and people at large. Therefore, a National Zoo Policy was adopted during the year 1998 for giving proper direction and thrust to the management of zoos by mustering cooperation and participation of all concerned. The main objective envisaged in the policy is to complement and strengthen the national effort in conservation of the rich biodiversity in the country particularly the wild fauna. This objective can be achieved through the following protocols:-

(i) Supporting the conservation of endangered species by giving species, which have no chance of survival in wild, a last chance of survival through coordinated breeding under ex-situ conditions and raise stocks for rehabilitating them in wild as and when it is appropriate and desirable;

(ii) To inspire amongst zoo visitors empathy for wild animals, an understanding and awareness about the need for conservation of natural resources and for maintaining the ecological balance;

(iii) Providing opportunities for scientific studies useful for

conservation in general and creation of data base for sharing between the agencies involved in in-situ and ex-situ conservation;

(iv) Besides the aforesaid objectives, the zoos shall continue to function as rescue centres for orphaned wild animals, subject to the availability of appropriate housing and upkeep infrastructure. Where appropriate housing and upkeep is not available, State Governments and the Central Government would ascertain setting up rescue facilities in off-the-display areas of the zoo, subject to the availability of land.

11. It is submitted that the Central Zoo Authority had granted conditional recognition for the first time to the Veermata Jijabai Udyan Zoo, Mumbai, during November, 1994 which was valid for a period of two years. Subsequently renewal of recognition to the zoo was granted again during December, 1997. Further renewal of recognition was granted to the zoo, which expired on 31-5-2003. The zoo was evaluated again for considering grant of further recognition. The evaluation report was considered by the Central Zoo Authority. It was observed in the report that the zoo had not complied with basic

conditions like removal of domestic animals and maintenance of appropriate records. Therefore, the recognition to the zoo has been kept on hold till it complies with the conditions. It is submitted that the Central Zoo Authority since 1994 has been repeatedly advising the zoo authorities to reduce the number of prolifically breeding species like Sambar and Spotted Deers. However, not much progress has been made by the zoo authorities in this regard.

12. It is submitted that one of the main objectives of operating a zoo is to inspire amongst zoo visitor's empathy for wild animals and awareness about need for conservation of natural resources and for maintaining the ecological balance. Therefore, exhibiting animals like Rhesus Macaque, Neelgai, Spotted Deer, Sambar, Hyena, Porcupine, Crocodile, etc. are also required which are part of the eco-system. However, such animals should be exhibited according to the holding capacity of the appropriately made animal enclosures. It is further submitted that at present the zoo is displaying 126 species of mammals, birds and reptiles totaling around 700 individuals. However, appropriate natural enclosures do not exist for all the species. Therefore, the only way to provide better facilities for the animals at the existing site is to

reduce the number of species and concentrate only on key species of wild animals specially the animals found in that region/state.

13. On behalf of respondent No.1, Superintendent of Garden of Mumbai, Byculla Zoo, has filed his affidavit. Respondent No.1 has taken a preliminary objection regarding the maintainability of the petition inasmuch as it involved disputed questions of fact. It is admitted that Zoo being 130 years old has its own limitations. The Corporation has taken the steps for its modification and development. The Zoo Advisory Board was constituted in 1988 for the said purpose and the proposals, plans, etc. for development and modification of the zoo were scrutinized and approved through Zoo Advisory Board. In 1992, the Central Zoo Authority was established. It is stated that the visitors are prohibited from bringing the eatables and water bottles and the visitors are screened by the security staff at the entrance. The entire garden and the zoo comprised of 48 acres. The Government of India has declared Byculla Zoo as Heritage Public Place Grade 2 (B) under D.C. Regulation 67. To avoid any further disturbance or any stress to animals, the Corporation has banned bringing any transistor, radio and any other musical instruments inside the Zoo. There are about 201 animals of 22 species, 414 birds of 38 species, 62 reptiles of 10

species, living and housed in 32 cages maintained for the purpose of conservation and breeding of the wild animals/birds. It is submitted that as per the new policy and directives from Central Zoo Authority, the old small cages with bars in the said Udyan and Zoo are now replaced by large open enclosures. In the affidavit, details of the development works which have been carried out during the last 12 years have been enumerated.

14. It is mentioned in the affidavit that considering the constraints of space and location, the State Government and Dairy Commissioner were approached for sparing suitable land for modern zoo and the State Government has agreed to spare 100 acres of land at Aarey Milk Colony at Goregaon but the experts of Central Zoo Authority have felt it necessary that minimum 400 acres to maximum 1000 acres of land is necessary for new concept of modern zoo keeping. It is further stated in the affidavit that respondent No.1 had taken all necessary steps to maintain proper condition of the Zoo and this petition being devoid of any merit deserved to be dismissed.

15. We have heard the learned counsel for the petitioner and respondents at some length.

16. The respondents, in reply-affidavit, have not accepted the averments mentioned in the petition regarding the extremely poor conditions prevalent at 'Byculla Zoo'. Therefore, in order to ascertain the truth and to receive suggestions from the wildlife experts, we considered it imperative to appoint an Expert Committee, consisting of India's leading wildlife experts, to visit the zoo and submit a comprehensive report to this Court.

17. Pursuant to the order of this Court dated 3rd November, 2004, an Expert Committee comprising of Dr. B.R. Sharma, Member Secretary, Central Zoo Authority, Ministry of Environment and Forests, Government of India, as the Chairman and Shri Bittu Sahgal, noted Wildlife Expert, Mumbai, Dr.A.P. Bhokre, Dean, Bombay Veterinary College, Mumbai and Shri Raj Panjwani, Wildlife Expert and Advocate, visited the Veermata Jijabai Bhonsle Udyan Zoo on 5th December, 2004, and submitted a comprehensive report giving long term recommendations, short term recommendations and immediate action plan.

18. Pursuant to the further order dated 3rd March, 2005, we requested the Committee Members and the respondents to sit together

and work out long term and short term measures for the improvement of the 'Byculla Zoo'.

19. The learned counsel appearing for the Corporation has handed over details of deliberations of the meetings of the Court appointed Expert Committee, their recommendations and response of the Corporation. The relevant portion is reproduced as under.

(i) The Committee pointed out that no action has yet been initiated on finalisation of the animal collection plan revised master (Layout) plan for the zoological park. The Zoo Management assured the Committee that it would finalise the animal collection plan within 15 days from the date of the meeting i.e. By 15th June, 2005. The Zoo Management further assured the Members of the Committee that the Master (Layout) Plan shall be finalised within three months and that the management plan shall be finalised within a period of one year. This suggestion has been accepted in toto by the respondents. The animal collection plan is prepared and same will be sent to the Member Secretary, Central Zoo Authority (C.Z.A.) for perusal. The C.Z.A. will be requested to recommend the names of the experts for the preparation of revised Master Plan for further development.

(ii) The second recommendation of the Committee was that one Deputy Superintendent is in charge of the Zoo on a full time basis and his key responsibility includes looking after the administration, management and technical aspects of the zoological park. This suggestion was accepted in toto and mentioned that single point authority exists as Deputy Superintendent of Gardens (Zoo). The delegation of additional administrative and financial powers will be

considered by the respondents.

(iii) The other recommendation of the Committee was that there has been no headway in acquiring more land for extension of the zoological park due to court cases pending in different Courts. This is subject to the outcome of pending litigation before this Court.

(iv) The other recommendation of the Committee was that there has been no headway in acquiring land at Aarey Milk Colony for having a biological park at the outskirts of Mumbai. Though some members opined that the zoo could be kept at its present location with decongestion, the consensus was that acquiring land at Aarey would be in the best interest of the animals and that efforts to acquire land to accommodate animals from the current zoo into larger, more natural enclosures would be be best. This suggestion has also been accepted and a reference has also been made to the then Minister for Environment and Forests, Govt. of India, in the year 1999, to have a larger zoo at Aarey Colony, Goregaon. Accordingly, a joint meeting of Secretary, Animal Husbandary and Dairy, Principal Chief Conservator of Forests, Borivli, Forest Secretary and Superintendent of Gardens, was held during the year 2000 and it was decided that one hundred

acres of land belonging to Aarey Milk Colony, Goregaon, would be made available for shifting the zoo from Byculla to Goregaon. The suggestion of shifting the zoo was not accepted by the respondents and it was also informed to the State Government that if a new zoo is to be developed at Aarey Milk Colony, minimum 400 to 1000 acres of land would be required. The Principal Secretary , Animal Husbandary and Dairy Development Corporation has informed that this much land cannot be made available. However, the proposal for development of new zoo at Aarey Milk Colony was not further motivated either by State Forest Authorities or by State Government. In the event of adequate land being made available by the State Government, requisite amount of funds will also be necessary. It is directed that the respondents shall endeavour to provide land for a Zoo at Aarey Milk Colony or such other area it deems fit for development of a new modern zoo.

(v) Another suggestion of the Committee was that no more animals will be acquired by the respondents until appropriate housing facilities have been made to decongest the existing facilities. This suggestion has also been accepted by respondents and it has been specifically agreed that no new animals will be acquired by the zoo until appropriate housing facilities have been made available. However,

few species of animals will have to be acquired with the permission of C.Z.A. as a replacement as per the animal collection plan prepared. These animals will be housed in the open moated enclosures which will be constructed as per the C.Z.A. norms. The respondents are also examining different options for upgrading the facilities at the zoo through private/N.G.O. participation.

(vi) The respondents have also agreed to the suggestion of the Committee that the in-charge of the Zoo would be consulted and would have more say in planning and execution of different civil works including the animal enclosures at the zoological park, in keeping with the suggestions of the Expert Committee and the orders of this Court.

(vii) The Committee's recommendation was also accepted that the Bombay Natural History Society's assistance would be taken to suggest the best way forward to create a world class nature interpretation centre at the current zoo site and to improve education and signages.

(viii) Another suggestion of the Committee for rainwater harvesting activity has also been accepted by respondents.

20. The Committee in its report has also given short term recommendations. The details of short term recommendations are recapitulated as under.

(i) It has been agreed that the Deputy Superintendent, the Veterinary Officer and the Curator of the Zoo would take a complete round of the zoo at different times on a daily basis. The Zoo Management in consultation with PETA shall prepare a checklist for the inspection report, which would be conducted twice a week. The said checklist shall be initialed by the Officer and maintained in a file. The Zoo Management agreed to the recommendation of the Committee, subject to modification, that twice a week inspection would be conducted along with a volunteer of the petitioner by prior appointment.

(ii) The respondents have also agreed to appoint 10 private security guards in order to check and apprehend persons teasing and feeding animals in the zoo. It was also agreed that the said ten security guards to be appointed shall be trained by petitioner and that

volunteers of petitioner would assist these security guards in the discharge of their duties. The expenses for the above security guards and volunteers may be met from the fines to be charged from the public for violations.

(iii) Respondents have also agreed to take immediate steps to provide for environmental, enrichment tools to reduced boredom, stress and stereotypic behaviour among the active animals at the zoo. The petitioner would be consulted in this regard.

(iv) The Zoo Management also informed the Expert Committee that necessary steps are underway for improvement of the zoological park.

(v) The respondents have also agreed that disinfection schedule shall be religiously followed in animal enclosures and feeding cubicles. The Expert Committee has also asked for details of chemicals used to verify that these are in keeping with acceptable safety standards for the animals and visitors that may come into contact with such disinfectants.

(vi) The suggestion of the Committee regarding upgradation and enlargement of animal enclosure has also been considered. The respondents have favourably responded to it. It is mentioned that for the development and improvement of V.J. B.U. Zoo, Zoo Advisory Board comprising of the members viz. Director, World Wild Fund for Nature, Dy. Conservator of Forest, Director, B.N.H.S., Dean, Bombay Veterinary College has been constituted since 1988 and the development works are discussed in the Board meetings and after the approval of the Board they are being implemented. The animal collection plan or the revised master layout plan will also be placed before the said Court appointed Expert Committee.

(vii) The respondents have agreed to make sincere and utmost efforts to improve general cleanliness of the zoo.

(viii) The respondents have agreed to take all necessary steps to reduce the noise level in the zoo. The respondent have also agreed that efforts would be made to bring noise levels to acceptable limits including education and control of visitors.

(ix) The respondents have also accepted the suggestion of the committee that all necessary steps shall be taken to ensure punctuality of zoo staff and improvement in the general working of the staff to keep vandalism and teasing of animals under control. It is mentioned that the requisite instructions/directions are being framed and would be displayed for the follow up of the animal keepers of the respective enclosures.

(x) The respondents have agreed to install pyre system for disposal of carcasses by burning. The Expert Committee noted that there was no need to install an incinerator in the Zoo as this may pose problems if plastic and other solid wastes are burnt.

(xi) The respondents have also agreed that periodic screening of staff for zoonotic disease is being carried out every six months in the Zoological Park. The Expert Committee has asked for the relevant reports to be submitted to it for inspection. This information be provided to the Expert Committee.

(xii) The respondents have further agreed that help and assistance of Shri Bittu Sehgal and Dr. Asad Rehmani (members of the Expert Committee from Mumbai) would be taken for replacement and

improvement of signages in the zoo. Their services would also be availed for creation of Zoo literature for distribution to the visitors.

(xiii) The curator informed the Expert Committee that necessary steps have been taken to record all relevant biological information of the animals in the Zoological Park. This report will also be submitted to the Expert Committee for its perusal.

(xiv) The Zoo management also agreed that it would not permit any food or eatable articles to be brought inside the zoo compound. The Zoo Management assured the Expert Committee that the persons visiting the Zoo shall be searched at the gate of entry to ensure that food articles and plastic bags are not taken inside the zoo. The Zoo Management informed the Committee that it has taken steps to train its staff at different levels, in collaboration with different local agencies. A list of this would be sent to the Chairman of Expert Committee for its approval.

(xv) The Zoo Management has also agreed to take necessary steps to control breeding in prolific species like Sambar, Spotted deer, Black buck, etc. the males and females are segregated by dividing

existing enclosures. Vasectomy operations have also been tried. A detailed report of the same would be sent to the Chairman, Expert Committee. The Zoological Park Management informed that it has a number of books on the subject of Zoos and Wildlife. A wildlife library is to be established on a trial basis for the proposed nature interpretation centre. Suggestions in this regard are likely to be received from B.N.H.S.

(xvi) The zoo management informed that there is no single sexed animal except one Rhino. That Rhino shall be relocated within one year on the advice of the Central Zoo Authority as it is not possible for the zoo authorities to procure a female Rhino immediately.

We have heard the learned counsel on this aspect and it has been agreed that within one year either the male Rhino shall be relocated or authorities shall obtain a female Rhino within that period.

21 (i) The suggestion of the Committee for shifting the only pair of Sloth Bears has not been accepted. It is submitted on behalf of the respondents that there is no valid reason for shifting the settled pair displayed for the last fifteen years and that too in an open moated enclosure. Non-breeding cannot be the criteria for its transfer. We

agree with the stand taken by the respondents. It is further directed that the pair of Himalayan Black Bear shall be housed in an open air naturalistic enclosure with encircled surroundings conforming to the norms specified by C.Z.A. in consultation with the Expert Committee.

(ii) Earlier, this Court had ordered the Zoo Management to identify the zoo where the excess Hippos would be shifted. The Zoo Management informed the Expert Committee that three Hippos have already been moved to Surat and Kolkatta Zoo. It was also informed by the Zoo Management that one male Himalayan Black Bear and one female Hippopotamus have already been collected by the authorities of Surat, Nature Park and the Director, Kolkatta Zoo has been requested to arrange to collect a pair of Hippos. Kolkatta Zoo has now informed that they will be collecting the Hippos during the month of August, 2005.

(iii) The respondents have also accepted the suggestion of the Expert Committee that the island to house the Monkeys would be created within a period of one year at the Zoological Park. The suggestion that the excess Sambar, Deer, Spotted Deer and Black Bucks must be dealt with has also been agreed. It has also been

agreed to translocate four Porcupines in the wild . The number of exotic birds is to be controlled by segregating the sexes to prevent further breeding. On the suggestion of the Committee, all Peacocks have been released in the Raj Bhavan forests.

(iv) The Zoo Management also informed the Expert Committee members that Crocodiles have never bred at the Zoo, also the excess number of Pythons would be released in a suitable habitat in the wild. The Expert Committee suggested that this be done in consultation with the Director of the Sanjay Gandhi National Park. This suggestion has also been accepted by the respondents.

(v) Regarding suggestion of shifting of Elephants, the first respondent submitted that there are three Elephants (1:2) at Byculla Zoo and open moated enclosure of an area of 4667 sq.mtrs. including water pool and separate feeding houses were recently constructed specifically for housing the Elephants. The plans were approved by C.Z.A. and financial assistance of Rs. 23,00,000/- were provided by C.Z.A. The Zoo Administration has agreed for transfer of the male elephant to a suitable place to be identified by C.Z.A. Accordingly, C.Z.A. has been requested for the same. Two female Elephants may

be retained at the Zoo for display for the purpose of conservation education to the visitors. Elephants are traditionally displayed in Indian Zoos, ever since the establishment of the zoo.

22. It seems that long term and short term recommendations have by and large been accepted by the respondents with some modifications. The learned counsel appearing for the respondents assures the Court that these recommendations would be implemented with utmost sincerity, speed and caution. In order to oversee the implementation of the directions given by the Apex Court and by this Court, we request Mr. Bittu Sahgal to inspect the zoo and to supervise the implementation of our directions and submit its report before the Committee for its consideration.

23. In consonance with the spirit of the Directive Principles of the State Policy of the Constitution of India, every endeavour must be made to avoid cruelty towards animals and ensure not to inflict unnecessary pain and suffering on living creatures. It is the obligation of the human society to ensure the conservation and welfare of the animal world for maintaining ecological balance. While keeping this in view, the respondent-Corporation and the Central Zoo Authority have agreed to

the recommendations/suggestions given by the petitioner organization, People for Ethical Treatment of Animals, in true spirit by not treating this litigation as an adversarial litigation but a collaborative litigation, and with the object and spirit of improving the prevalent conditions of the zoo.

24. Before we part with this case, we would like to place on record our deep sense of appreciation for the members of the Committee specially Shri Raj Panjwani for providing excellent assistance in this matter. We would also like to place on record our appreciation for the very positive attitude adopted by Shri K.K. Singhvi, learned Senior Advocate, appearing for the Corporation in readily agreeing to implement the long term and short term recommendations given by the Expert Committee to improve conditions of more than a century old 'Byculla Zoo', which is a part of our heritage. Only with such an approval, a lot can be accomplished in the larger public interest.

25. No further directions are necessary in this petition and consequently this petition is accordingly disposed of. We direct the Registry to forward copies of this judgment to the members of the Expert Committee.

CHIEF JUSTICE

S.J. VAZIFDAR, J.